

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MOHAMED MOSHRIF,)
) CASE NO. C12-1249-RSL-MAT
Petitioner,)
)
v.) ORDER DENYING MOTION TO
) REQUEST HEARING AND
SNOHOMISH COUNTY CORRECTIONS) DIRECTING PETITIONER TO
and SNOHOMISH COUNTY SHERIFF'S) SHOW CAUSE
DEPARTMENT,)
)
Respondents.)
_____)

Petitioner, proceeding *pro se*, submitted a 28 U.S.C. § 2254 habeas corpus petition. (Dkt. 8.) He seeks to challenge a May 23, 2012 conviction for violations of no contact/protection orders. Petitioner also filed a motion requesting a hearing in this matter. (Dkt. 13.) However, for the reasons explained below, it appears that this habeas petition is subject to dismissal.

“An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that . . . the applicant has

01 exhausted the remedies available in the courts of the State.” 28 U.S.C. § 2254(b)(1)(A). The
02 exhaustion requirement “is designed to give the state courts a full and fair opportunity to
03 resolve federal constitutional claims before those claims are presented to the federal courts,”
04 and, therefore, requires “state prisoners [to] give the state courts one full opportunity to resolve
05 any constitutional issues by invoking one complete round of the State’s established appellate
06 review process.” *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999). A complete round of the
07 state’s established review process includes presentation of a petitioner’s claims to the state’s
08 highest court. *James v. Borg*, 24 F.3d 20, 24 (9th Cir. 1994). Here, petitioner concedes he has
09 not yet sought any relief in state court. (See Dkt. 8 at 2-4.) Accordingly, petitioner may not at
10 this time pursue habeas relief in this Court.¹

11 The Court also identifies another deficiency in the petition. Neither Snohomish
12 County Corrections, nor Snohomish County Sheriff’s Department is a proper respondent. A
13 petitioner for habeas corpus relief must name the state officer having custody of him or her as
14 the respondent to the petition. *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004); *Stanley v.*
15 *California Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994). That person typically is the
16 warden of the facility in which the petitioner is incarcerated. *Id.* Failure to name the
17 petitioner’s custodian deprives federal courts of personal jurisdiction. *Stanley*, 21 F.3d at 360.
18 As such, if petitioner were able to establish exhaustion, he would have to identify a proper
19 respondent in order to pursue this case.

20 Given the above, petitioner’s Motion to Request Hearing (Dkt. 13) is DENIED and

21 ¹ Petitioner should inquire into any state court deadlines relating to the conviction at issue.
22 The Court notes that, for example, a state court petition for collateral attack on a judgment and sentence
in a criminal case must be filed within one year after the judgment becomes final. RCW 10.73.090(1).

01 petitioner is hereby ORDERED to show cause, within **forty-five (45) days** of the date of this
02 Order, why his petition should not be dismissed without prejudice. The Clerk is directed to
03 send a copy of this Order to petitioner and to the Honorable Robert S. Lasnik.

04 DATED this 30th day of August, 2012.

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07 Mary Alice Theiler
08 United States Magistrate Judge
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